In the High Court of Uttaranchal, at Nainital.

Criminal Appeal No. 1203/2001
(Old No. 1129/1987)

Vijay Kumar ….. Appellant

Versus

State of U.P. ….. Respondent.

Hon'ble B.C. Kandpal, J.

This appeal has been transferred from Allahabad High Court. After receipt of the record, notices were sent to the parties.

2- Today none has appeared on behalf of the appellant, hence I have heard Sri Rajeev Mohan Birkani, learned A.G.A. and perused the judgment and order passed by the court below.

3- This appeal has been preferred against the judgment and order dated 9-3-1987 passed by Sessions Judge, Dehradun in S.T. No. 7/1984, acquitting the appellant U/S 307/34, but holding him guilty U/S 25 Arms Act and giving him benefit of Probation of First Offenders Act and directing him to furnish the personal bond of Rs. 2000/- and two sureties of the like amount for keeping peace for six months.

4- perusal of the judgment passed by the trial court shows that the finding recorded therein cannot be said to be adverse. The evidence adduced by the prosecution has been rightly assessed and discredited by the trial Judge in coming to the conclusion that the offence U/S 307/34 I.P.C. could not be established beyond reasonable doubt. As far as the offence U/S 25 Arms Act is concerned, the trial Court after having close scrutiny of the evidence, has come to the conclusion that the case U/S 25 Arms Act has been established against the appellant beyond reasonable doubt and I do not find any infirmity in the findings arrived at by the trial Judge in this regard.

5- The trial court while exercising its discretion has granted the benefit of Probation of First Offenders Act to the appellant and I do not find any ground to interfere in the discretion exercised by the trial court, as the discretion has been exercised in a judicious manner.

6- I do not find any perversity or infirmity in the impugned judgment and order passed by the trial court.

7- Accordingly this appeal is dismissed. The impugned judgment and order dated 9-3-1987 passed by Sessions Judge, Dehradun in S.T. No. 7/1984, is hereby confirmed.

(B.C. Kandpal, J.)

Dated: 04-08-2006
ISB